

1 WEST VALLEY CITY, UTAH

2  
3 ORDINANCE NO. \_\_\_\_\_

4  
5 Draft Date: 12/21/09; 1/7/10; 1/27/10

6 Date Adopted: \_\_\_\_\_

7 Date Effective: \_\_\_\_\_

8  
9 AN ORDINANCE AMENDING SECTIONS 17-26-104, 17-26-106,  
10 17-26-109, 17-26-110, AND 17-26-112, ENACTING SECTIONS 17-  
11 26-111.1, 17-26-123.1 AND 17-26-138, AND REPEALING  
12 SECTIONS 17-26-111 AND 17-26-117 OF TITLE 17 OF THE  
13 WEST VALLEY CITY MUNICIPAL CODE REGARDING THE  
14 ISSUANCE OF BUSINESS LICENSES TO SEXUALLY-  
15 ORIENTED BUSINESSES.  
16

17 WHEREAS; pursuant to §10-8-84, Utah Code Annotated, the City has the authority to  
18 pass ordinances and rules, and make all regulations that provide for the safety and preserve the  
19 health, and promote the prosperity, improve the morals, peace and good order, comfort, and  
20 convenience of the city and its inhabitants, and for the protection of property in the City; and  
21 may enforce obedience to these ordinances; and  
22

23 WHEREAS; the City recognizes regulating the issuance of business licenses to sexually-  
24 oriented businesses and, in particular, escort bureaus (as herein defined), is necessary to provide  
25 for the health and safety of the public and of the community; the public morals and decency of  
26 the City and its inhabitants; and the continued economic development of the City; and  
27

28 WHEREAS; the City desires to clearly articulate the procedures for obtaining a  
29 sexually-oriented business license, as well as the terms and definitions used to mandate  
30 appropriate and legal operation or propriety of such licensed businesses; and  
31

32 WHEREAS; the City desires to ensure all employees of a licensed sexually-oriented  
33 business are, and have been within the prescribed time period (as herein provided), complicit  
34 with all pertinent Federal, State, and local laws, as indicated by this ordinance; and  
35

36 WHEREAS; the City desires to ensure compliance with all pertinent laws by mandating  
37 all employees of a sexually-oriented business (as herein defined) must apply for and obtain a  
38 Police I.D. card before commencing work as an employee of a sexually-oriented business; and  
39

40 WHEREAS; the City desires to specifically designate the categories of sexually-oriented  
41 business licenses and the restrictions imposed thereon; and  
42

43 WHEREAS; the City desires to set apart from the previous Outcall Services category  
44 and create a new Service-oriented Escort Bureau category as an effort to regulate and to set forth  
45 unambiguous mandates to regulate said business category;  
46

47 WHEREAS; the City Council of West Valley City, Utah, does hereby determine that it  
48 is in the best interests of the health, safety, and welfare of the citizens of West Valley City to

amend 17-26-104, 17-26-106, 17-26-110, and 17-26-112, enact Sections 17-26-123.1 and 17-26-138 and repeal Sections 17-26-111 and 17-26-117 of Title 17 of the West Valley City Municipal Code.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of West Valley City, Utah, as follows:

**Section 1. Repealer.** Section 17-26-111 and Section 17-26-117 of Title 17 and any other provision of the West Valley City Municipal Code found to be in conflict with these Ordinances are hereby repealed.

**Section 2. Enactment.** Sections 17-26-111.1, 17-26-123.1 and 17-26-138 of Title 17 of the West Valley City Municipal Code are hereby enacted.

**Section 3. Amendment.** Sections 17-26-104, 17-26-106, 17-26-109, 17-26-110, and 17-26-112 of Title 17 of the West Valley City Municipal Code are hereby amended as follows:

## **CHAPTER 17-26 SEXUALLY-ORIENTED BUSINESSES**

Sections:

- 17-26-101. Title for Citation.
- 17-26-102. Purpose of Provisions.
- 17-26-103. Application of Provisions.
- 17-26-104. Definitions.
- 17-26-105. Obscenity and Lewdness – Statutory Provisions.
- 17-26-106. Location and Zoning Restrictions.
- 17-26-107. Business License Required.
- 17-26-108. Exemptions from License Requirements.
- 17-26-109. Legitimate Artistic Modeling.
- 17-26-110. Business Categories - Number of Licenses.
- 17-26-111. ~~Employee Licenses.~~ **REPEALED.**
- 17-26-111.1 Police I.D. Cards Required.
- 17-26-112. License - Application – Disclosures Required.
- 17-26-113. License - Fees.
- 17-26-114. License - Bond.
- 17-26-115. License - Premises Location and Name.
- 17-26-116. license - Issuance Conditions.
- 17-26-117. ~~License – Term.~~ **REPEALED.**
- 17-26-118. License - Notice of Change of Information.
- 17-26-119. License - Transfer Limitations.
- 17-26-120. License - Display.
- 17-26-121. License - Statement in Advertisements.
- 17-26-122. Regulations and Unlawful Activities.
- 17-26-123. Outcall Services - Operation Requirements.
- 17-26-123.1 Service-oriented Escort Bureaus.
- 17-26-124. Adult Business - Design of Premises.

96	17-26-125.	Semi-nude Entertainment Business – Design of Premises.
97	17-26-126.	Semi-nude Entertainment Business – Location Restriction.
98	17-26-127.	Alcohol Prohibited.
99	17-26-128.	Semi-nude Dancing Agencies.
100	17-26-129.	Performers - Prohibited Activities.
101	17-26-130.	Patrons - Prohibited Activities.
102	17-26-131.	Nudity - Defenses to Prosecution.
103	17-26-132.	Existing Businesses - Compliance Time Limits.
104	17-26-133.	Violation - Injunction When.
105	17-26-134.	Violation - License Suspension or Revocation.
106	17-26-135.	Effect of License Revocation.
107	17-26-136.	Appeal Procedures.
108	17-26-137.	Violation - Penalty - Responsibility.
109	17-26-138.	Vicarious Liability.

---

## 111 17-26-104. DEFINITIONS.

112 For the purpose of this Chapter, the following words shall have the following meanings:

- 113 (1) “Adult Bookstore or Adult Video Store” means a commercial establishment:
- 114 a. Which excludes minors from more than fifteen percent of the retail floor or
- 115 shelf space of the premises; or
- 116 b. Which, as one of its principal purposes, offers for sale or rental, for any form
- 117 of consideration, any one or more of the following: books, magazines,
- 118 periodicals, or other printed matter; or photographs, films, motion pictures,
- 119 video cassettes, or video reproductions, slides, or other visual representations,
- 120 the central theme of which depicts or describes ~~“specified sexual activities”~~
- 121 ~~“sexually-oriented acts”~~ or “specified anatomical areas”; or instruments,
- 122 devices, or paraphernalia which are designated for use in connection with
- 123 ~~“specified sexual activities”~~ ~~“sexually-oriented acts,”~~ except for legitimate,
- 124 ~~medically-recognized~~ ~~medically-recognized~~ contraceptives.
- 125 (2) ~~“Adult Business”~~ means an adult motion picture theater, adult bookstore, or adult
- 126 video store.
- 127 (3) ~~“Adult Motion Picture Theater”~~ means a commercial establishment which:
- 128 a. Excludes minors from the showing of two consecutive exhibitions (repeated
- 129 showings of any single presentation shall not be considered a consecutive
- 130 exhibition); or
- 131 b. As its principal business, shows, for any form of consideration, films, motion
- 132 pictures, video cassettes, slides, or similar photographic reproductions which
- 133 are primarily characterized by the depiction or description of ~~“specified sexual~~
- 134 ~~activities”~~ ~~“sexually-oriented acts”~~ or “specified anatomical areas.”
- 135 (4) ~~“Adult Theater”~~ means a theater, concert hall, auditorium, or similar commercial
- 136 establishment which:
- 137 a. Holds itself out as such a business; or
- 138 b. Excludes minors from the showing of two consecutive exhibitions (repeated
- 139 showings of any single presentation shall not be considered a consecutive
- 140 exhibition); or

141 c. As its principal business, features persons who appear in live performances in  
 142 a state of semi-nudity or which are characterized by the exposure of specified  
 143 anatomical areas or by ~~specified sexual activities~~ “sexually-oriented acts”.

144 (5) “Associate” means any person who controls, is controlled by, or is under common  
 145 control with a licensee, including a person who, whether disclosed or not:

146 a. Is a general partner, limited partner, officer, director or employer of the  
 147 applicant or licensee; or

148 b. Directly or indirectly acting in concert with one or more other persons, or  
 149 through one or more subsidiaries, owns, controls, holds with power to  
 150 vote, or holds proxies of the voting interest in the licensee or applicant; or

151 c. Controls the election of a majority of the directors of the licensee or  
 152 general partner of the licensee; or

153 d. Has contributed any capital to the licensee or applicant unless the  
 154 contribution is secured by collateral, the value of which is equal to the  
 155 amount of the contribution, and unless there is a promise to repay the  
 156 contribution on a strict schedule regardless of the earnings, profits or  
 157 receipts, and said promise is kept within the limits of commercial banking  
 158 practices;

159 e. Sponsors, procures or pays for advertisements, pays for or is contractually  
 160 liable for telephone services, or promises or advances, loans or expends  
 161 any money to pay license fees, office or start-up expenses without  
 162 collateral and a promise to repay as is required in subdivision (d) of this  
 163 subsection.

164

165 (6) “City” means, unless otherwise indicated, any area incorporated as West Valley  
 166 City.

167

168 (7) “Director” Means the Business License Administrator of West Valley City.

169

170 ~~(5)~~(8) “Employ” means hiring an individual to work for pecuniary or any other form of  
 171 compensation, whether such person is hired on the payroll of the employer, as an independent  
 172 contractor, as an agent, or in any other form of employment relationship.

173 (9) “Employee” means any individual hired or contracted to work for pecuniary or  
 174 any other form of compensation, whether such person is hired on the payroll of the employer, as  
 175 an independent contractor, as an agent, or in any other form of legal employment relationship.

176

177 ~~(6)~~(10) “Escort” means ~~any person who, for pecuniary compensation, dates, socializes,~~  
 178 ~~visits, consorts with, or accompanies or offers to date, consort, socialize, visit, or accompany~~  
 179 ~~another or others to or about social affairs, entertainment, or places of amusement, or within any~~  
 180 ~~place of public or private resort or any business or commercial establishment or any private~~  
 181 ~~quarters.~~ any person who, in exchange for any form of pecuniary compensation, contracts with,  
 182 or offers to enter into a contract with, an escort patron for a date; to socialize with; to consort  
 183 with; or to visit or accompany to any social affair. A social affair may include, but is not limited  
 184 to, entertainment, a place of amusement, any place of public or private resort, any business or  
 185 commercial establishment, or a private quarter or residence. Escort shall not be construed to  
 186 include persons who provide business or personal services, such as licensed private nurses, aides

for the elderly, or handicapped, social secretaries or similar service personnel whose relationship with their patron is characterized by a bona fide contractual relationship having a duration of more than twelve hours and who provide a service not principally characterized as dating or socializing. Escort shall also not be construed to include persons providing services such as singing telegrams, birthday greetings, or similar activities characterized by appearances in a public place, contracted for by a party other than the person for whom the service is being performed and of a duration not longer than one hour.

a. A “service-oriented escort” is an escort which:

- i. Operates from an open office; and
- ii. Does not employ or use an escort bureau runner; and
- iii. Does not advertise that sexual conduct or sexually-oriented acts will be provided to an escort patron or work for an escort bureau which so advertises; and
- iv. Does not offer to provide acts of sexual conduct.

b. A “sexually-oriented escort” is an escort which:

- i. Employs an escort bureau runner; or
- ii. Works for, as an employee, or is referred to an escort patron by a sexually-oriented escort bureau; or
- iii. Advertises that sexual conduct will be provided to the patron or work for a service-oriented escort bureau which so advertises; or
- iv. Solicits, offers to provide or does provide acts of sexual conduct to an escort patron, or accepts an offer or solicitation to provide acts of sexual conduct for a fee in addition to the fee charged by the service-oriented escort bureau; or
- v. Works as a service-oriented escort without having a current Police I.D. Card issued for the referring service-oriented escort bureau in his or her possession at all times while working as a service-oriented escort; or
- vi. Accepts a fee from an escort patron who has not first been delivered a contract.

(7) (11) ~~Escort Service means an individual or entity that, for pecuniary compensation, furnishes or offers to furnish escorts, or provides or offers to introduce patrons to escorts.~~

“Escort Bureau” means a person, as defined herein, which for a fee, commission, profit, payment or other monetary consideration, furnishes, refers or offers to furnish or refer escorts, or provides or offers to introduce escort patrons to escorts.

a. A “**service-oriented escort bureau**” is an escort bureau which:

- i. Maintains an open office at an established place of business; and
- ii. Employs or provides only escorts which possess Police I.D. Cards; and
- iii. Does not use an escort bureau runner; and
- iv. Does not advertise that sexually-oriented acts will be provided to an escort patron; and
- v. Does not employ or refer a sexually-oriented escort to escort patrons; and

233 vi. Operates in conformance with Section 17-26-123.1 of the West Valley  
234 City Code.

235  
236 b. A “**sexually-oriented escort bureau**” is an escort bureau which:

237 i. Does not maintain an open office at an established place of business;  
238 or

239 ii. Does not employ or provide escorts which possess Police I.D. Cards;  
240 or

241 iii. Employs or uses an escort bureau runner; or

242 iv. Advertises that sexually-oriented acts will be provided, referred, or  
243 introduced to an escort patron; or

244 v. Solicits, offers to provide or does provide sexually-oriented acts to an  
245 escort patron; or

246 vi. Does not deliver contracts to every patron or customer; or

247 vii. Employs or refers a sexually-oriented escort; or

248 viii. Operates in violation of Section 17-26-123.1 of the West Valley City  
249 Code.

250  
251 (8)(12) “**Escort Service Bureau Runner**” means any third person, not an escort, who, for  
252 pecuniary compensation, acts in the capacity of an agent or broker for an a service-oriented  
253 escort service bureau, escort, or escort patron by contacting or meeting with service-oriented  
254 escort services bureaus, escorts, or escort patrons at any location within the City, whether or not  
255 such third person is employed by such service-oriented escort bureau, escort, escort patron, or by  
256 another business, or is an independent contractor or self-employed.

257  
258 (13) “**Escort Patron**” means any person who, in exchange for any form of pecuniary  
259 compensation, contracts with, or offers to enter into a contract with, a service-oriented escort  
260 bureau or service-oriented escort for a date; to socialize with; to consort with; or to visit or  
261 accompany to any social affair. A social affair may include, but is not limited to, entertainment,  
262 a place of amusement, any place of public or private resort, any business or commercial  
263 establishment, or a private quarter or residence.

264  
265 (14) “**Licensee**” means a person who is the holder of a valid sexually oriented business  
266 license under this title. Licensee includes an agent, servant, employee or other person while  
267 acting on behalf of that licensee whenever such licensee is prohibited from doing a certain act  
268 under this title.

269  
270 (9)(15) “**Nudity**” means a state of dress in which the areola of the female breast, or male  
271 or female genitals, pubic region, or anus are covered by less than the covering required in the  
272 definition of semi-nude.

273  
274 (16) “**Offer to provide acts of sexual conduct**” means to offer, propose or to solicit to  
275 provide sexually-oriented acts to a patron. Such definition includes all conversations,  
276 advertisements and acts which would lead a reasonably prudent person to conclude that such acts  
277 are offered and would be provided.

(17) "Open Office" means an office at a licensed service-oriented escort bureau or outcall service address from which service-oriented escort bureau or outcall service business is transacted and which complies with the following requirements:

- a. The office shall be open to the public and patrons or prospective patrons during daily hours of operation and that the office be accessible to business invitees, business license officials and law enforcement officers during all other hours that any and all employees are working;
- b. The office shall be managed by the owner or a management employee of the owner having authority to bind the outcall or service-oriented escort service to contracts with patrons and adjust patron and consumer complaints;
- c. All telephone lines and numbers shall be listed to the outcall or service-oriented escort service, or advertised as outcall or service-oriented escort service numbers, which terminate at the open office and at no other location;
- d. An index of any and all employees and service-oriented escorts and their work card numbers shall be kept in the open office;
- e. All contracts and records of gross sales required to be kept by Title 17 of this Code shall be kept and maintained in the open office. "Records of gross sales" must include any and all records of calls from patrons offering to enter into a contract or referrals to the service-oriented escort bureau or outcall service of potential patrons. Records of referrals or calls from patrons offering to enter into a contract must state: (1) The patron's address, including hotel or motel room; (2) The date and time of the referral, if one exists; (3) the name of the service-oriented escort sent and whether or not the referral resulted in an actual contracted service and the total fee received from the patron, if any.

~~(10)~~(18) "Operator" means the manager or other natural person principally in charge of a sexually-oriented business.

~~(11)~~(19) "Outcall Services" means any services, excluding escort services, of a type performed by a sexually-oriented business employee outside of the premises of the licensed sexually-oriented business. Outcall services may include, but are not limited to, escorts, models, dancers and other similar employees.

~~(12)~~(20) "Patron" means an escort patron any person who contracts with or employs any escort services or escort or the customer of any business licensed pursuant to this Chapter.

~~(13)~~(21) "Pecuniary Compensation" means any commission, fee, salary, tip, gratuity, hire, profit, reward, or any other form of consideration.

(14)(22) "Person" means any person, unincorporated association, corporation, partnership, or other legal entity.

(23) "Police department" means the West Valley City Police Department.

(15)(24) "Semi-nude" means a state of dress in which opaque clothing covers no more than the areola of the female breast; and the male or female genitals, pubic region, and anus shall be fully covered by an opaque covering no narrower than four inches wide in the front and five inches wide in the back, which shall not taper to less than one inch wide at the narrowest point.

(16)(25) "Semi-nude Dancing Agency" means any person, agency, firm, corporation, partnership, or any other entity or individual which furnishes, books, or otherwise engages or offers to furnish, book, or otherwise engage the service of a professional dancer licensed pursuant to this Chapter for performance or appearance at a business licensed for adult theaters.

(17)(26) "Semi-nude Entertainment Business" means a business, including adult theater, where employees perform or appear in the presence of patrons of the business in a state of semi-nudity. A business shall also be presumed to be a semi-nude entertainment business if the business holds itself out as such a business.

(27) "Sexual conduct" means the engaging in sexually-oriented acts, as defined in this Title, which includes, but is not limited to, an act of sexual intercourse, oral-genital contact, or the touching of the sexual organs, pubic region, buttock or female breast of a person for the purpose of arousing or gratifying the sexual desire of another person.

(28) "Sexual gratification" means sexual conduct as defined in subsection (27) of this section.

(29) "Sexually oriented acts" means:

a. Acts of:

- i. Masturbation,
- ii. Human sexual intercourse,
- iii. Sexual copulation between a person and a beast,
- iv. Fellatio,
- v. Cunnilingus,
- vi. Bestiality,
- vii. Pederasty,
- viii. Buggery, or
- xi. Any anal copulation between a human male and another human male, human female, or beast;

b. Manipulating, caressing or fondling by any person of:

- i. The genitals of a human,



- ii. The pubic area of a human,
- iii. The breast or breasts of a human female;

- c. Flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of the one so clothed.

(18)(30) “Sexually-Oriented Business” means ~~semi-nude entertainment businesses, sexually-oriented outcall services, adult businesses, and semi-nude dancing agencies, as defined by this Chapter.~~ any of the following categories as defined by this Title:

- a. Outcall services;
- b. Adult businesses;
- c. Semi-nude entertainment businesses;
- d. Semi-nude dancing agencies; and
- e. Service-oriented escort bureaus.

(19)(31) “Sexually-Oriented Business Employees” means those employees who work on the premises of a sexually-oriented business in activities related to the sexually-oriented portion of the business. This includes all managing employees, dancers, service-oriented escorts, models, and other similar employees, whether or not hired as employees, agents, or as independent contractors. Employees shall not include individuals whose work is unrelated to the sexually-oriented portion of the business, such as janitors, bookkeepers, and similar employees. Sexually-oriented business employees shall not include cooks, serving persons, and similar employees, except where they may be managers or supervisors of the business. All persons making outcall meetings under this Chapter, including escorts, models, guards, escort runners, drivers, chauffeurs, and other similar employees, shall be considered sexually-oriented business employees.

(32) “Sexual Stimulation” means to excite or arouse the prurient interest or to offer or solicit acts of sexual conduct as defined under “offer to provide acts of sexual conduct” in subsection (16) of this section.

(20)(33) “Specified Anatomical Areas” means the human male or female pubic area or anus with less than a full opaque covering, or the human female breast below a point immediately above the top of the areola, with less than full opaque covering.

(21) Specified Sexual Activities means:

- a. Acts of:
  - i. Masturbation,
  - ii. Human sexual intercourse,
  - iii. Sexual copulation between a person and a beast,
  - iv. Fellatio,
  - v. Cunnilingus,
  - vi. Bestiality,
  - vii. Pederasty,
  - viii. Buggery, or

- 416 xi. ~~Any anal copulation between a human male and another human~~  
417 ~~male, human female, or beast;~~  
418 b. ~~Manipulating, caressing or fondling by any person of:~~  
419 ~~i. The genitals of a human,~~  
420 ~~ii. The pubic area of a human,~~  
421 ~~iii. The breast or breasts of a human female;~~  
422 e. ~~Flagellation or torture by or upon a person clad in undergarments, a mask~~  
423 ~~or bizarre costume, or the condition of being fettered, bound or otherwise~~  
424 ~~physically restrained on the part of the one so clothed.~~

425 (34) "Suitable" means a finding by the licensing board that a person qualifies for  
426 licensure within this chapter, complies with all conditions required for the issuance of any  
427 particular category of sexually oriented business license, and is not, or does not have associates  
428 who are, associated with organized crime.

## 429 **17-26-106. LOCATION AND ZONING RESTRICTIONS.**

430 It is unlawful for any sexually-oriented business to do business at any location within the City not  
431 zoned for such business. ~~All S~~sexually-oriented businesses categories listed in this Chapter and licensed  
432 ~~as adult businesses or semi-nude entertainment businesses~~ pursuant to this Chapter shall only be allowed  
433 in areas zoned for their use pursuant to Title 7 of the West Valley City Code.

## 434 **17-26-109. LEGITIMATE ARTISTIC MODELING.**

435 (1) The City does not intend to unreasonably or improperly prohibit legitimate modeling  
436 which may occur in a state of nudity for purposes protected by the First Amendment of the United States  
437 Constitution, Article 1, Section 15 of the Utah State Constitution, or any other similar State protections.  
438 The City does intend to prohibit prostitution and related offenses occurring under the guise of nude  
439 modeling. ~~Notwithstanding the provisions of Section 17-26-122(11), a licensed outcall employee may~~  
440 ~~appear in a state of nudity before a customer or patron, providing that a written contract for such~~  
441 ~~appearance was entered into between the customer or patron and the employee and signed at least twenty-~~  
442 ~~four hours before the nude appearance. All of the other applicable provisions of this Chapter shall still~~  
443 ~~apply to such nude appearance.~~

## 444 **17-26-110. BUSINESS CATEGORIES – NUMBER OF LICENSES.**

445 (1) It is unlawful for any business premises to operate or be licensed for more than one  
446 category of sexually-oriented business, except that a business may have a license for both outcall services  
447 and a semi-nude dancing agency on the same premises.

- 448 (2) The categories of sexually-oriented businesses are:
- 449 a. Outcall services;
  - 450 b. Adult businesses;
  - 451 c. Semi-nude entertainment businesses;
  - 452 d. Semi-nude dancing agency; and
  - 453 e. Service-oriented Escort services

456 **17-26-111. ~~EMPLOYEE LICENSES. REPEALED.~~**

457 ~~It is unlawful for any sexually oriented business to employ or for any individual to be employed~~  
458 ~~by a sexually oriented business in the capacity of a sexually oriented business employee, unless that~~  
459 ~~employee first obtains a sexually oriented business employee license.~~  
460

461 **17-26-111.1 POLICE I.D. CARDS REQUIRED.**

462  
463 (1) Required.

- 464 a. It is unlawful for any person to be a sexually-oriented business employee without  
465 first acquiring a police I.D. card pursuant to the requirements of this chapter.  
466 b. Police I.D. cards are also referred to in this and other sections of the West Valley  
467 City Code as a “work card.”  
468 c. Each day of non-compliance shall constitute a separate violation.

469 (2) Procedure for Obtaining a Police I.D. Card.

- 470 a. Prior to performing or providing services as an employee for a sexually-oriented  
471 business, the applicant shall submit a signed police I.D. card application to the  
472 Police Department along with the police I.D. fee, as set forth in the Consolidated  
473 Fee Schedule. The applicant shall submit to being photographed and  
474 fingerprinted.  
475 b. All applicants shall furnish satisfactory proof of his or her age. Proof of age is  
476 satisfactory if it the applicant’s age is verified by an official birth certificate, or  
477 any other official, government-issued document, such as a driver’s license or  
478 marriage certificate.  
479 c. In addition to grounds for denial of Police I.D. cards, the West Valley City Police  
480 Department may deny an I.D. Card if the applicant has been convicted of  
481 prostitution, which includes any other crime listed in Section 76-10-13 of the  
482 Utah State Code; lewdness; conspiracy, fraud or obtaining money under false  
483 pretenses; or has worked as a sexually-oriented escort or operated a sexually-  
484 oriented escort service. The conviction of any of the above crimes or an act of  
485 sexual conduct or solicitation for such act by a holder of a work card may be  
486 grounds for suspension or revocation of a sexually-oriented business license or  
487 work card by the City.  
488 d. All sexually-oriented businesses listed in this title shall keep a current list of all  
489 employees at the licensed business location. Said list shall be available during all  
490 business hours for inspection by the Director, any authorized representative of  
491 the Director, and agents of the West Valley City Police Department.  
492 e. The West Valley City Police Department may issue a ninety-day temporary  
493 Police I.D. Card pending complete investigation, if available evidence does not  
494 support the immediate granting or denial of a permanent card. No person  
495 required to obtain a Police I.D. Card pursuant to this chapter shall be licensed or  
496 work as an employee of a sexually-oriented business, including the categories  
497 specified in this chapter, without either a temporary or permanent work card.  
498 The temporary work card may be extended only once without the consent of the  
499 License Hearing Board.

500 (3) Cards Required.

- 501 a. All sexually-oriented businesses employees shall have in their possession a valid  
502 police I.D. card, which card is not transferrable. Sexually-oriented business  
503 employees must not commence work in or for any sexually-oriented business  
504 prior to receiving said card, or a temporary card, based on the application

required in this section. A receipt for payment of the police I.D. fee required by this Section shall not constitute a valid police I.D. card.

(4) Duty to Display Card on Request.

a. Should a police I.D. card be granted, the grantee shall carry the card in his or her possession, and any authorized official shall have the right to inspect the police I.D. card. The police I.D. card shall contain the name, address, and date of birth of the employee.

(5) Grounds for Denial, Suspension, or Revocation of an Employee Police I.D. Card or a Business License.

a. In addition to the reasons set forth in this Title, the City may deny, suspend or revoke a police I.D. card if the sexually-oriented business employee:

- i. Has violated any provision of this Title;
- ii. Is under eighteen years of age;
- iii. Has falsely answered a material question or request for information as authorized by this Chapter or included in the application for a police I.D. Card;
- iv. Has violated a provision of this Chapter or similar provisions found in statutes or ordinances from any jurisdiction within two years immediately preceding the application for a police I.D. Card;
  - a. A criminal conviction for a violation of a provision of this Chapter or similar provisions from any jurisdiction, whether or not it is being appealed, is conclusive evidence of a violation.
  - b. A conviction is not necessary to prove a violation of this Chapter or similar provisions from any jurisdiction.
- v. Has not paid the required license fees;
- vi. Has been convicted or pled *nolo contendere* to a crime;
  - a. Involving prostitution; exploitation of prostitution; aggravated promotion of prostitution; aggravated exploitation of prostitution; solicitation of sex acts; sex acts for hire; compelling prostitution; aiding prostitution; sale, distribution, or display of material harmful to minors; sexual performance by minors; possession of child pornography; lewdness; indecent exposure; any crime involving sexual abuse or exploitation of a child; sexual assault or aggravated sexual assault; rape; forcible sodomy; forcible sexual abuse; incest; harboring a runaway child; criminal attempt, conspiracy, or solicitation to commit any of the foregoing offenses or offenses involving similar elements from any jurisdiction, regardless of the exact title of the offense for which:
    - i. Less than five years have elapsed from the date of conviction, if the conviction is of a misdemeanor offense, or less than seven years if the convictions are of two or more misdemeanors within the seven years, or
    - ii. Less than ten years have elapsed from the date of conviction, if the offense is of a felony.
  - b. The fact that a conviction is being appealed shall have no effect on the disqualification pursuant to this Section.
- vii. Has procured, attempted to procure, or agreed to procure, for any person:
  - a. A controlled substance, as defined in U.C.A. 58-37-1, et seq., 1953 as amended; or

- b. Another person for the purpose of sexual intercourse or any other sexual conduct.
- viii. If an employee has attempted to solicit or has solicited a patron to consume alcoholic beverages;
- ix. Has utilized his or her license for the purpose of obtaining credit or as identification for cashing checks.

**17-26-112. LICENSE - APPLICATION - DISCLOSURES REQUIRED.**

Before any applicant may be licensed to operate a sexually- oriented business, the applicant must have truthfully and adequately disclosed all information required by and listed in this Chapter. A separate license is required for each fictitious name under which a person conducts business. Only one license shall be issued for each person for whom a finding of suitability, as defined by this chapter, is required under the terms of this code. All business expenses are made at the applicant's risk, as the license may terminate prior to amortization thereof.

(1) All persons desiring to obtain a business license to engage in a sexually-oriented business within the City shall first file an application with the Director on a form provided by the City. All persons who furnish property or services to a licensee under any arrangement pursuant to which the person receives payments based on earnings, profits or receipts from the sexually-oriented business must file an application pursuant to this section and be found suitable by the Director.

(2) All applicants shall provide the following information under oath or affirmation:

(+) a. The correct legal name of each applicant, corporation, partnership, limited partnership, or entity doing business under an assumed name;

(-) b. If the applicant is a corporation, partnership, or limited partnership, or individual or entity doing business under an assumed name, the information required below for individual applicants shall be submitted for each partner and each principal of an applicant, and for each officer, director, and any shareholder (corporate or personal) of more than ten percent of the stock of any applicant. Any holding company, or any entity holding more than ten percent of an applicant, shall be considered an applicant for purposes of disclosure under this Chapter;

a-c. The shareholder disclosure requirements above shall only be applicable for outcall service licenses;

(-) d. All corporations, partnerships, or non-corporate entities included on the application shall also identify each individual authorized by the corporation, partnership, or non-corporate entity to sign the checks for such corporation, partnership, or non-corporate entity;

(+) e. For all applicants or individuals, the application must also state:

a- i. Any other names or aliases used by the individual,

b- ii. The age, date, and place of birth,

c- iii. Height,

d- iv. Weight,

e- v. Color of hair,

f- vi. Color of eyes,

g- vii. Present business address and telephone number,

h- viii. Present residence and telephone number,

i- ix. Utah drivers license or identification number, and

j- x. Social security number;

xi. Financial statement and current and previous business activities and associates, covering at least a ten-year period immediately preceding the date of filing of the application.

- (5) f. Acceptable written proof that any individual is at least eighteen years of age;
- (6) g. Attached to the form, as provided above, two color photographs of the applicant clearly showing the individual's face and the individual's fingerprints on a form provided by the Police Department. For persons not residing in the City, the photographs and fingerprints may be on a form from the law enforcement jurisdiction where the person resides. Fees for the photographs and fingerprints shall be paid by the applicant directly to the issuing agency;
- (7) h. For any individual applicant required to obtain a sexually-oriented business employee license as an escort or a semi-nude entertainer, a certificate from the Salt Lake City-County Health Department, stating that the individual has, within thirty days immediately preceding the date of the original or renewal application, been examined and found to be free of any contagious or communicable diseases;
- (8) i. A statement of the business, occupation, or employment history of the applicant for ~~three~~ **five** years immediately preceding the date of the filing of the application;
- (9) j. A statement detailing the license or permit history of the applicant for the five-year period immediately preceding the date of the filing of the application, including whether such applicant previously operating or seeking to operate, in this or any other county, city, state, or territory, has ever had a license, permit, or authorization to do business denied, revoked, or suspended, or has had any professional or vocational license or permit denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, state the date, the name of the issuing or denying jurisdiction, and state in full the reasons for the denial, revocation, or suspension. A copy of any order of denial, revocation, or suspension shall be attached to the application;
- (10) k. All criminal convictions or pleas of ~~nolo contendere~~ **nolo contendere**, except those which have been expunged, and the disposition of all such arrests for the applicant, individual, or other entity subject to disclosure under this Chapter, for ~~five~~ **ten** years prior to the date of the application. This disclosure shall include identification of all ordinance violations, excepting minor traffic offenses (any traffic offense designated as a felony shall not be construed as a minor traffic offense), stating the date, place, nature of each conviction or plea of ~~nolo contendere~~ **nolo contendere**, and sentence of each conviction or other disposition, identifying the convicting jurisdiction and sentencing court, and providing the court identifying case numbers or docket numbers. Application for a sexually-oriented business or employee license shall constitute a waiver of disclosure of any criminal conviction or plea of ~~nolo contendere~~ **nolo contendere** for the purposes of any proceeding involving the business or employee license;
- l. A list of convictions for all pandering, prostitution, soliciting, thefts, fraud, obtaining money under false pretenses, embezzlement or any criminal convictions involving the use of force or violence upon the person of another; or adverse civil action judgments involving allegations pertaining to fraudulent advertising, sales or trade practices, and a detailed explanation of the circumstances;
- m. The complete address (including suite number) of the proposed business location in the City, with a copy of the deed, lease or other document pursuant to which applicant occupies such premises;
- (11) n. In the event the applicant is not the owner of record of the real property upon which the business or proposed business is or is to be located, the application must be accompanied by a notarized statement from the legal or equitable owner of the possessory interest in the property specifically acknowledging the type of business for which the applicant seeks a license for the property. In addition to furnishing such notarized statement, the applicant shall furnish the name, address, and phone number of the owner of record of the property, as well as the copy of the lease or rental agreement pertaining to the premises in which the service is or will be located;

o. The person(s) who will have custody of the business records at the business location;

p. Agent for service of process;

(12) q. A description of the services to be provided by the business, with sufficient detail to allow reviewing authorities to determine what business will be transacted on the premises, together with a schedule of usual fees for services to be charged by the licensee, and any rules, regulations, or employment guidelines under or by which the business intends to operate. This description shall also include:

a. i. The hours that the business or service will be open to the public, and the methods of promoting the health and safety of the employees and patrons and preventing them from engaging in illegal activity;

b. ii. The methods of supervision preventing the employees from engaging in acts of prostitution or other related criminal activities;

c. iii. The methods of supervising employees and patrons to prevent employees and patrons from charging or receiving fees for services or acts prohibited by this Chapter or other statutes or ordinances;

iv. The methods for advertising and all advertising themes; and

d. v. The methods of screening employees and customers in order to promote the health and safety of employees and customers and prevent the transmission of disease, and prevent the commission of acts of prostitution or other criminal activity.

(3) Partnerships, Limited Partnerships, and Corporations

a. If an applicant is a partnership or limited partnership, all application information listed in subsection (2) of this section shall be provided for all of the partners, including, if applicable, limited partners, the same as if each were a sole proprietor and applicant.

b. If applicant is a corporation, all application information listed in subsection (2) of this section shall be provided for each of the directors, officers and shareholders holding ten percent or more of the stock of the corporation, the same as if each were a sole proprietor and applicant;

c. If applicant is a partnership or limited partnership, it shall provide a certified copy of an agreement or articles of partnership or limited partnership and certificate;

d. If applicant is a corporation, the application shall be accompanied by:

i. A certified copy of the articles of incorporation of such corporation and, if incorporated under the laws of another state, a certificate of qualification to do business in the State of Utah; and

ii. A current annual list of officers, directors and resident agent of such corporation; and

iii. A list of the stockholders, the last known residence address and telephone number of each, and their respective ownership interests in such corporation certified as being true and correct by the secretary of such corporation; and

iv. A certified copy of all minutes or resolutions by the board of directors of such corporation authorizing such license application and designating the officer to apply on such application and authorizing his verification thereof.

e. If such business is to be conducted under a name other than the legal name of the applicant, the application must be accompanied by a copy of the fictitious name certificate on file with the Utah Department of Commerce.

f. All officers, directors or shareholders which own, directly or constructively, ten percent or more of the outstanding stock of the corporation, and the managing agent of the corporation must be investigated for determination of suitability as set forth in this chapter.

(4) The applicant shall supplement the application by submitting a written plan setting forth the method of operation of the sexually-oriented business, which shall include, but not be limited to:

- a. The hours that the business will be open to the public (said hours shall include all hours escorts or outcall employees are with a patron); and
- b. The methods of promoting the health and safety of employees and protecting them from assault, battery and rape; and
- c. The methods of supervision of employees to prevent employees from charging the patron with any fee which in addition to the fee paid to the business by the patron; and
- d. The methods of supervision which will prevent the employees from soliciting acts of prostitution or offering to provide sexual stimulation or sexual gratification; and
- e. The Federal Employer's Identification number; and
- f. The name and the address of the certified public accountant who will certify the gross receipts upon application for renewal license; and
- g. The applicant shall submit a statement disclosing the names of all persons who have invested in the proposed sexually oriented business, and who will share in or receive a percentage of the profit or return from the proposed escort service; and
- h. The method of compensating employees.

(5) The failure to truthfully disclose any of the information required by this Chapter or the failure to make a full disclosure of all facts required shall be grounds for denying a license or Police I.D. Card or, if subsequent to issuance of a license or work card it is discovered that any applicant or person required to be investigated has not been completely truthful or has withheld any facts in answering the above questions, such failure shall be grounds for revoking the license.

(6) After the filing of a completed application and payment of all fees, the applicant shall be referred to the West Valley City Police Department for fingerprinting, investigation, and reporting as required in this Chapter.

~~It is unlawful to knowingly submit false or materially misleading information on or with a sexually oriented business license application or to fail to disclose or omit information for the purpose of obtaining a sexually oriented business or employee license.~~

## **17-26-116. LICENSE - ISSUANCE CONDITIONS.**

The Business and Economic Services Administrator shall approve the issuance of a license to the applicant within thirty days after receipt of a completed application, unless the official finds one or more of the following:

- (1) The applicant is under eighteen years of age;
- (2) The applicant is overdue in payment to the City of taxes, fees, fines, or penalties assessed against the applicant or imposed on the applicant in relation to a sexually-oriented business;
- (3) The applicant has falsely answered a material question or request for information as authorized by this Chapter;
- (4) The applicant is either currently in violation of or has previously violated a provision of this Chapter, or similar provisions found in statutes or ordinances from any other jurisdiction, or has violated a provision of this Chapter, or similar provisions found in statutes or ordinances from any jurisdiction, within two years immediately preceding the application;



- 756 a. A criminal conviction for a violation of a provision of this Chapter or similar provisions  
757 from any jurisdiction, whether or not it is being appealed, is conclusive evidence of a  
758 violation, but a conviction is not necessary to prove a violation.
- 759 (5) The premises to be used for the business have been disapproved by the Salt Lake City-County  
760 Health Department, the Fire Department, the Police Department, the building officials, or the  
761 zoning officials as not being in compliance with applicable laws and ordinances of the City. If  
762 any of the foregoing reviewing agencies cannot complete their review within the thirty-day  
763 approval or denial period, the agency or department may obtain from the City Business and  
764 Economic Services Administrator an extension of time of no more than fifteen days for their  
765 review. The total time for the City to approve or deny a license shall not exceed forty-five days  
766 from the receipt of a completed application and payment of all fees. Businesses located outside  
767 of the corporate boundaries of the City, but requiring a license under this Chapter, may be denied  
768 a license pursuant to this Chapter if the business does not have a valid business license to conduct  
769 business at the business location from the appropriate jurisdiction for that location;
- 770 a. Upon receipt of an application, all departments required to review the application shall  
771 determine within seven days whether or not the application is incomplete in items needed  
772 for processing. Incomplete applications shall immediately be returned to the applicant  
773 with a specification of the items which are incomplete;
- 774 b. The time for processing applications specified in this Section shall begin to run from the  
775 receipt of a complete application;
- 776 c. In the event that a license for semi-nude entertainment, semi-nude dancing agencies,  
777 adult businesses, or semi-nude entertainment businesses has not been disapproved within  
778 thirty days or the forty-five days allowed after an extension, the City shall issue the  
779 license pending completion of the City's review;
- 780 d. Any license issued pursuant to (c) above may be revoked by the City, pursuant to the  
781 revocation procedures provided for herein, if the completed review determines that the  
782 license should have been denied.
- 783 (6) The required license fees have not been paid;
- 784 (7) All applicable sales and use taxes have not been paid;
- 785 ~~(8) An applicant for the proposed business is in violation of or not in compliance with this Chapter or~~  
786 ~~similar provisions found in statutes or ordinances from any jurisdiction;~~
- 787 (8) An applicant has been convicted or pled ~~nolo contendere~~ *nolo contendere* to a crime:
- 788 a. Involving prostitution; exploitation of prostitution; aggravated promotion of prostitution;  
789 aggravated exploitation of prostitution; solicitation of sex acts; sex acts for hire;  
790 compelling prostitution; aiding prostitution; sale, distribution, or display of material  
791 harmful to minors; sexual performance by minors; possession of child pornography;  
792 lewdness; indecent exposure; any crime involving sexual abuse or exploitation of a child;  
793 sexual assault or aggravated sexual assault; rape; forcible sodomy; forcible sexual abuse;  
794 incest; harboring a runaway child; criminal attempt, conspiracy, or solicitation to commit  
795 any of the foregoing offenses or offenses involving similar elements from any  
796 jurisdiction, regardless of the exact title of the offense; for which:
- 797 i. Less than five years have elapsed from the date of conviction, if the conviction is  
798 of a misdemeanor offense, or less than seven years if the convictions are of two  
799 or more misdemeanors within the seven years, or
- 800 ii. Less than ten years have elapsed from the date of conviction, if the offense is of a  
801 felony;
- 802 b. The fact that a conviction is being appealed shall have no effect on the disqualification  
803 pursuant to this Section.

804 **17-26-117. LICENSE TERM. REPEALED.**

805 Sexually oriented business and employee licenses issued pursuant to this Chapter shall be valid  
806 from the date of issuance through July 1st of each succeeding year. The license fees required  
807 under the Consolidated Fee Schedule shall not be prorated for any portion of a year, but shall be  
808 paid in full for whatever portion of the year the license is applied for.

809 **17-26-123.1. SERVICE-ORIENTED ESCORT BUREAUS.**

810 (1) Prohibited and unlawful activities.

- 811 a. It is unlawful for any person to conduct, manage, operate, or maintain a sexually-oriented  
812 escort bureau as defined by this Chapter.
- 813 b. It is unlawful for any person to conduct, manage, operate, or maintain a service-oriented  
814 escort bureau within the City unless licensed pursuant to this Chapter.
- 815 c. It is unlawful for any person to work or perform services as a service-oriented escort in  
816 the City unless employed by a licensed service-oriented escort bureau or licensed as a  
817 service-oriented escort bureau.

818 (2) Escort Bureau Duties.

- 819 a. The escort bureau shall provide to each patron a written contract and receipt of payment  
820 for services. The contract shall clearly state the type of services to be performed; the  
821 length of time such services shall be performed; the total amount of money such services  
822 shall cost the patron; and any special terms or conditions relating to the services to be  
823 performed.
- 824 b. The escort bureau shall keep and maintain any and all records of gross sales, as defined in  
825 this Title, which are transacted pursuant to this Section, for a period not less than one (1)  
826 year from the date of provision of services. All contracts entered into by the escort  
827 service and escort patrons shall be kept and maintained by the escort service for a period  
828 not less than eighteen (18) months from the date of provision of services. All contracts  
829 entered into by the escort service and escort patrons shall be numbered and entered into a  
830 register listing the contract number, date, names of all employees involved in the  
831 contract, and pecuniary compensation paid.
- 832 c. The escort bureau shall maintain an open office at the licensed location during all hours  
833 escorts are working. The address of that office shall be included in all patron contracts  
834 and published advertisements. Private room or booths where the patron may meet with  
835 the escort shall not be provided at the open office or at any other location by the escort  
836 service. Violation of this provision shall be grounds for license revocation.
- 837 d. The escort bureau, in terms of licensing consequences, is responsible and liable for the  
838 acts of all its employees and subcontractors including, but not limited to, telephone  
839 receptionists and escorts who are referred to that service while the escort is with the  
840 patron.
- 841 e. The escort bureau shall commence business in accordance with this Chapter within thirty  
842 (30) days after issuance of the license. In the event an escort bureau licensee shall not  
843 commence business in an open office within thirty days after issuance of a license, or  
844 shall discontinue business or close the open office for a period of thirty (30) days without  
845 specific approval of the City, such license shall terminate and be revoked automatically.

846 (3) Advertising – Implying services other than service-oriented escorts.

- 847 a. Any publication, dissemination or display by hire, contract, or otherwise; by any service-  
848 oriented escort, service-oriented escort bureau, or owner, manager, or employee of a  
849 service-oriented escort bureau; within the scope of this chapter, directly or indirectly; in  
850 any newspaper, magazine or other publication; by any radio, television, telephonic or  
851 pictorial display; or by any other advertising media which contains any statement which

is known; or through the exercise of reasonable care would suggest to a reasonable, prudent person, that sexual stimulation or sexual gratification is offered, or provided, is prohibited.

- b. Any word, phrase or combination of words used in any advertisement, which imply that the service-oriented escort or service-oriented escort bureau offers or provides sexual conduct or operates as a sexually-oriented escort bureau, or which give the public a basis to believe that sexual stimulation or sexual gratification, or any form of sex, is provided is prohibited.
- c. It is unlawful to advertise or hold out to the public the availability of a service-oriented escort or service-oriented escort bureau without obtaining a license, as provided in this Chapter, whether the actual business of a service-oriented escort or a service-oriented escort bureau is performed or not.
- d. Any photograph, picture, drawing, sketch, pictorial representation, verbal or written description, used in any escort or escort service advertisement, in any of the advertising media showing or depicting an escort, or representation of an escort in any of the following manners is prohibited and shall be presumed to be advertising the availability of sexual conduct:
  - i. An unclothed state, or attired in clothing which shows the human male or female genitals, pubic area or buttocks with a less-than-fully opaque covering;
  - ii. The showing of the female breast with a less-than-fully opaque covering of any portion thereof below the top of the nipple;
  - iii. The depiction of covered male genitals in a discernibly turgid state.

(4) Cease and Desist Orders.

- a. The Director, pursuant to objective standards as set forth in this Chapter, may issue an order requiring a licensee to cease and desist any violation of this chapter if the licensing board or the director, upon investigation, determines that a licensee has violated any provision of this chapter. The licensee may appeal to the licensing board any cease and desist order issued by the Director.
- b. Appeal of a cease and desist order may be made by filing a written notice of appeal with the City Recorder within 15 days of receipt of the notice of the order.
- c. The notice of appeal shall be in writing and shall set forth with specificity the reasons for which the appeal is taken.
- d. A hearing for the appeal shall be at a time, place, and day set by the Hearing Board. The hearing shall be scheduled no later than four working days after receipt of the notice of appeal and shall occur within sixteen working days after receipt of the notice of appeal. The hearing shall be conducted as directed under Title 17-3-107 of the West Valley City Code.

**17-26-138. VICARIOUS LIABILITY.**

Every act or omission by an employee constituting a violation of the provisions of this ordinance shall be deemed the act or omission of the licensee if such an act or omission occurs either with the authorization, knowledge or approval of the licensee, or as a result of the licensee's negligent failure to supervise the employee's conduct. A licensee shall be responsible for the conduct of all employees while on the licensed premises.

898           **Section 4. Severability.** If any provision of this Ordinance is declared to be invalid by a court of  
899 competent jurisdiction, the remainder shall not be affected thereby.

900  
901           **Section 5. Effective Date.** This Ordinance shall take effect immediately upon posting in the  
902 manner required by law.

**PASSED and APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

WEST VALLEY CITY

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY RECORDER